IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8131 OF 2024

1. Shraddha Dinesh Kad]
Age – 25 years,]
Occ. Agricultural and Business,]
R/o. At Kharabwadi, Tal. Khed,]
Dist. Pune;]
2. Akash Namdev Bedge,]
Age – 31 years,]
Occ. Agricultural and Business,]
R/o. At Waghjai Nagar, Kharabwadi,]
Tal. Khed, Dist. Pune;]
3. Ramdas Kisan Rokade]
Age – 40 years,]
Occ. Agricultural and Business,]
4. Rajendra Kisan Rokade,]
Age – 44 years,]
Occ. Agricultural and Business,]
Petitioner Nos. 3 and 4]
R/o. At Waki Khurd,]
Tal. Khed, Dist. Pune;]
5. Swapnil Sambhaji Nakhate]
Age – 33 years,]
Occ. Agricultural and Business,]
R/o. At Aai Niwas, Nakhatewasti,]
Rahatani, Pune;]
6. Santosh Suresh Shilavane,]
Age – 40 years,]
Occu. Agricultural and Business.]
7. Aashabai Santosh Shilavane,]
Age – 36 years,]
Occu. Agricultural and Business,]
Petitioner Nos. 6 and 7]
R/o. At Waghjai Nagar, Kharabwadi,]

	Tal. Khed, Dist. Pune;	]	
8.	Raju Vitthal Satkar Age – 40 years, Occu. Agricultural and Business, R/o. Padali, Rajgurunagar, Tal. Khed, Dist. Pune.	]	.. Petitioners

Versus

1.	State of Maharashtra Through Secretary, Revenue and Forest Department, Mantralaya, Mumbai – 32.	]	
2.	District Collector, Pune.	]	
3.	Deputy Conservator of Forest, Pune Division Pune, Having office at Opp. Symbosis College, Senapati Bapat Road, Pune – 411 016.	]	
4.	Tahasildar Maval, Tal. Maval, Dist. Pune.	]	
5.	Circle Officer, Village Vadgaon, Tal. Maval, Dist. Pune.	]	..Respondents

...

Mr. Rajesh Kachare a/w. Mr. Sachin P. Shetye and Mr. Jotiram R. Jadhav, Advocate for the Petitioners.

Mr. Karan Thorat, 'B' Panel Advocate the Respondent–State.

...

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

DATED : 16th FEBRUARY, 2026.

JUDGMENT : [Per : Manjusha Deshpande, J.]:

1. Rule. Rule made returnable forthwith. The matter is taken up for final disposal with the consent of parties.

2. The issue in this Writ Petition is also subject matter of challenge in many other Writ Petitions raising challenge to the mutation entry in the other rights column of the 7/12 extract of the lands, with a remark "subject to provisions of the Maharashtra Private Forests (Acquisition) Act, 1975. The Petitioners before this Court are the purchasers of the land Gat No. 143 admeasuring 1 Hectare 60 Are at Village Pale, Tal-Maval, District- Pune.

3. The case of the Petitioners is that the Petitioners have purchased the aforementioned land from its erstwhile owner *vide* registered sale deed Nos. 13019 dated 12.12.2022, 12430 dated 04.10.2023 and 15308 dated 22.12.2023. Based on these sale deeds, the Petitioners' name have been recorded in the 7/12 extract of the said land. Upon acquiring title of the said land, the Petitioners made an application to the Collector, Pune, and Deputy Conservator of Forest requesting for deletion of the entry "subject to provisions of the Maharashtra Private Forests (Acquisition) Act, 1975" from the other rights column of the 7/12 extract and rectification of the error. Since the applications made by the Petitioners were not responded to by the respective Authorities, they are constrained to approach this Court.

4. The learned Advocate Mr. Rajesh Kachare for the Petitioner would submit that, the land of the Petitioners was acquired for the Pawna Irrigation Project in Pune District some time in the year 1964, from the original owners. After completion of the project the authorities of the Irrigation Department discovered that some of the acquired land were above the Highest Flood Level (HFL) of the dam hence were not required for the project. A policy decision was therefore taken *vide* G.R. dated 10.10.1973, to return such land to the respective owners, from whom such land were acquired. In furtherance of the G.R. dated 10.10.1973 an order was passed on 30.12.1995, returning the land to the original owner Shri. Nathu Bala Ghule.

5. It is submitted that the Petitioners have purchased the land from the erstwhile owners and are in possession and occupation of the agricultural land. A Mutation Entry No. 675 ("ME No. 675", for short) dated 20.01.2006 certified by Circle Officer on 18.04.2006, came to be recorded on the basis of a communication issued by the Range Forest Officer, Vadgaon Maval addressed to the Tahsildar on 15.12.2005, showing remark, "subject to provisions of the Maharashtra Private Forests (Acquisition) Act, 1975", in the other right column.

It is submitted that while making the above entry, none of the officers have followed the procedure prescribed under the provisions of Maharashtra Land Revenue Code, 1966. Being aggrieved by the said entry, the Petitioner's predecessor preferred an Appeal against ME No. 675, before the Sub Divisional Officer, Maval, who allowed the Appeal and and directed to delete the disputed entry of "private forest" *vide* order dated 04.10.2007.

Simultaneously, the Petitioner's predecessor in title also preferred an application before the Deputy Conservator of Forest Pune, in respect of the remark made in the other rights column of Gut No. 143 requesting to decide the actual status of the acquired lands for the Pawna Project which were returned to the original owners. In response thereto, the Deputy Conservator of Forest, has passed an order dated 21.04.2007 after taking into consideration the facts and the record. So far as the entry as "Private Forest" land is concerned, there is a categorical observation made by him that, proof to the effect whether any notice has ever been issued in respect of the said land as contemplated under Sections 34, 35(3) and 35(1) of the Indian Forest Act, 1927 to the land owner is not available with the office. Hence, the land of the Petitioner has not been acquired by taking recourse to the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975. He has therefore ordered that the concerned land in Survey No.143 to the extent of 1 Hector 60 Are, belonging to Nathu Bala Ghule shall stand excluded as the forest land and in future it shall be treated as an agricultural land for all the administrative, judicial and practical purposes. By passing such order, he has corrected the administrative mistake and requested the Sub Divisional Officer Maval to make corrections by deleting the entry of "subject to the provisions of Maharashtra Private Forests (Acquisition) Act, 1975" from the 7/12 extract.

6. The learned advocate has further drawn our attention to the fact that the land under question was already acquired for Pawna Irrigation Project and accordingly stood vested in the Government. While it still stood in the name of Government, the entry of "subject to the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975", was taken in the 7/12 extract. This according to the Petitioner is totally impermissible.

7. The learned advocate submits that the case is squarely

covered by the decision in group of Writ Petitions in W.P. No.10338 of 2014 along with connected Writ Petitions decided by this Court *vide* order dated 07.01.2016. The adjoining land holder of the Petitioner in Gut No. 144/1 of village Pale, was one of the Petitioner's in the aforementioned group of Writ Petitions. After considering the effect of the Judgment rendered by the Apex Court in case of ***Godrej and Boyce Manufacturing Company Limited and Anr. Vs. State of Maharashtra and Others***[1]. This Court has passed an order holding that the case of the Petitioner's therein was squarely covered by the decision in ***Godrej and Boyce (Supra).*** as well as some other judgments which were rendered following the decision in ***Godrej and Boyce (Supra).*** It is therefore submitted that since the adjoining land holder was successful in obtaining favourable orders from this Court, wherein this Court has declared that the entry made by the State Government, in the Revenue Record of the Petitioner will have to be quashed and set aside, hence, the Petitioner is also entitled for similar reliefs, being adjoining land holder of Gut No. 143, and identically placed.

8. The learned AGP has opposed the prayers made by the

1 (2014) 3 SCC 430

Petitioner, he has made submissions relying on the affidavit filed on behalf of the Respondent Nos. 2, 4 and 5, who are Revenue Authorities as well as Respondent Nos. 1 and 3, who are the Forest Officers. He submits that the land of the Petitioner is covered with trees, bushes and shrubs, hence, it comes within the definition of Forest/Private Forest as defined under Section 2(c)(1) and Section 2(c)(1)(iii) read with Section 2(f) of the Maharashtra Private Forests (Acquisition) Act, 1975. A categorical averment is made in the affidavit of the Respondent Nos. 1 and 3 stating that prior to acquisition of the said land for Pawna Dam Project, a notice under Section 35(3) of the Indian Forest Act, 1927 was issued to the then holder of the said land in 1960. Reliance is placed on the so called “Golden Register” maintained by the Vadgaon Forest Division. According to him, the entry in the Golden Register indicates that, the said land was identified as ‘Forest’ by the Forest Department. It is submitted that the Land Acquisition Authority did not take any permission of the Forest Department before the acquisition. The said land was infact vested in the State Government as per the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975, therefore the Collector had no power to acquire the land for the irrigation project and thereafter to return the said land to the original land holders.

9. During the hearing when we inquired with the learned AGP, whether there is any proof of service of the notice which is claimed to be issued by them under Section 35(3) of the Indian Forest Act, 1927, he could not give any satisfactory answer nor he could point out from his affidavit or document annexed to the affidavit about any proof of service of the said notice.

10. On this background, when we examine the case of the Petitioner, we find that the same to be based on a very narrow compass in view of the decision of the Hon'ble Supreme Court in case of ***Godrej and Boyce (Supra).*** In this judgment, the Hon'ble Supreme Court has considered the interplay between the provisions of Indian Forest Act, 1927, and the Maharashtra Private Forests (Acquisition) Act, 1975. While interpreting the effect of notice issued Section 35(3) of the Indian Forest Act, the Hon'ble Apex Court has held that the notice issued under Section 35(3) of the Indian Forest Act, has to be acted upon in a reasonable time, by taking a decision, and if it is not acted upon for all the intent and purposes, it

shall be treated as having become a dead letter. If the notice is not acted upon for an unreasonably long period, then it will have to be presumed that the State does not desire to act on it. The relevant observations contained in paragraph 55, 56 and 57 of the judgment applicable to the present case are reproduced hereinbelow, which read thus:

> *"55. A notice under Section 35(3) of the Forest Act is intended to give an opportunity to the owner of a forest to show cause why, inter alia, a regulatory or a prohibitory measure be not made in respect of that forest. It is important to note that such a notice presupposes the existence of a forest. The owner of the forest is expected to file objections within a reasonable time as specified in the notice and is also given an opportunity to lead evidence in support of the objections. After these basic requirements are met, the owner of the forest is entitled to a hearing on the objections. This entire procedure obviously cannot be followed by the State and the owner of the forest unless the owner is served with the notice. Therefore, service of a notice issued under Section 35(3) of the Forest Act is inherent in the very language used in the provision and the very purpose of the provision.*
>
> *56. Additionally, Section 35(4) of the Forest Act provides that a notice under Section 35(3) of the Forest Act may provide that for a period not exceeding six months (extended to one year in 1961) the owner of the forest can be obliged to adhere to one or more of the regulatory or prohibitory measures mentioned in Section 35(1) of the Forest Act. On the failure of the owner of the forest to abide by the said measures, he/she is liable to imprisonment for a term up to six months and/or a fine under Section 35(7) of the Forest Act. Surely, given the penal consequence of non-adherence to a Section 35(4) direction in a Section 35(3) notice, service of such a notice must be interpreted to be mandatory. On the facts of the case in Godrej, such a*

> *direction was in fact given and Godrej was directed, for a period of six months, to refrain from the cutting and removal of trees and timber and the firing and clearing of vegetation. Strictly speaking, therefore, despite not being served with Notice No. WT/53 and despite having no knowledge of it, Godrej was liable to be punished under Section 35(7) of the Forest Act if it cut or removed any tree or timber or fired or cleared any vegetation.*
>
> *58. This interplay may be looked at from another point of view, namely, the need to issue a direction under Section 35(4) of the Forest Act, which can be only to prevent damage to or destruction of a forest. If the notice under Section 35(3) of the Forest Act is not served on the owner of the forest, he/she may continue to damage the forest defeating the very purpose of the Forest Act. Such an interpretation cannot be given to Section 35 of the Forest Act nor can a limited interpretation be given to the word "issued" used in the context of Section 35 of the Forest Act in Section 2(f)(iii) of the Private Forests Act."*

Thus, it is evident from the paragraphs quoted above that merely issuance of notice under Section 35(3) of the Indian Forest Act is not sufficient, said notice is required to be acted upon and should culminate in issuance of Notification under Section 35(1). In case no further steps are taken for issuance of notice under Section 35(3), such stale notices cannot be acted upon after unreasonable long duration, after lapse of many decades and it would be unfair to the interested person.

11. In the present case, it is claimed by Respondent No. 2 and 3 that notice under Section 35(3) of the Indian Forest Act

was issued to the then holder of the land in 1960. Hence, based on the notice issued under Section 35(3) of the Indian Forest Act in the year 1960, which has not culminated in a Notification under Section 35(1) of the Indian Forest Act, entry of "subject to the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975", cannot be taken in the 7/12 extract. Exactly which has been done in the present case by making a Mutation entry the same on 20.01.2006 in the other rights column of the 7/12 extract, in respect of the land owned by the Petitioner in Gut No. 143 of village Pale, Taluka Maval, District–Pune.

12. In a recent decision, the Hon'ble Supreme Court in case of ***Rohan Nahar Vs. State of Maharashtra***[2], once again had an occasion to deal with the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975 and notice issued under Section 35(3) and its effect on the present as well as the erstwhile owners. While considering the legality of the judgment rendered by this Court, following issues were raised by the Petitioners before the Hon'ble Apex Court. Relevant paragraphs of the said judgment recording the issues raised is as follows:

2

13.1. In our opinion, the controlling legal position is settled. For vesting to occur under Section 3(1) of the MPFA Act on the footing of Section 2(f)(iii), a notice under Section 35(3) of the IFA must not only be issued but must also be served upon the landholder. The expression "issued" in Section 2(f)(iii) of the MPFA Act comprehends due service on the owner, because service alone triggers the owner's right to object, including the jurisdictional plea that the land is not a forest within Section 2(c-i) of the MPFA Act, and obliges the State to consider such objection. We are unable to agree with the High Court that the reproduction of a draft text of Section 35(1) beneath a Section 35(3) show cause in the Gazette amounts to a concluded notification under Section 35(1) of the IFA. A notice that grants time for objections cannot coexist with a final decision under Section 35(1) without rendering the statutory hearing illusory. Mutation entries are ministerial in nature and cannot perfect an acquisition that lacks the statutory predicates. They neither create title in the State nor divest title from the private owner.

13.2. On the facts across these appeals, we find that the essential links in the statutory chain are missing. There is no proof of service of any Section 35(3) notice of the IFA on the then owners. There is no final notification under Section 35(1) of the IFA. Actual possession has at all times remained with private owners and this position is reflected in the revenue records that describe them as occupants. No possession was taken under Section 5 of the MPFA Act, no schemes were set in motion under Section 4, no compensation exercise was undertaken under Section 7, and no inquiry under Section 6 was held at a time proximate to the appointed day of 30 August 1975. The materials produced by the State include undated and unverified possession papers that do not inspire confidence when set against decades of undisturbed private possession. In one instance the State relies on a pipeline notice which was addressed to a person who was not the owner as on 29 or 30 August 1975. In another, the land forms part of an industrial estate converted to non-agricultural use long before 1975. In yet another, there was never any claim that a Section 35(3) notice was even issued. These features are *wholly inconsistent with a completed vesting under Section 3(1) of the MPFA Act.*

13.3. We are not persuaded by the Respondent State's reliance on post-hoc material. Satellite imagery and panchnamas drawn in 2016 do not establish the character of the lands on the appointed day, which is the only relevant date for Section 3(1) of the MPFA Act. A nineteenth century notification, invoked for the first time at the appellate stage to suggest linkage with a reserved forest, was not the foundation of the impugned mutations and cannot be used to improve the case now. The administrative orders must stand or fall on the reasons originally given and the High Court could not sustain vesting on grounds that were never the basis of action. The absence of any notification under Section 34A of the IFA further weakens the State's position. We also find merit in the submission that a restoration under Section 22A of the MPFA Act presupposes a lawful vesting. When the foundational vesting is unproven, any purported restoration cannot cure the defect, and in any event the limited window created by Section 22A cannot be reopened decades later. Expropriatory legislation must be construed strictly and Article 300-A of the Constitution requires that no person is deprived of property save by authority of law. When a statute prescribes a manner of doing a thing, it must be done in that manner or not at all. Here, several mandatory steps are absent. Any one missing step would defeat vesting. The High Court was therefore in error in treating the case as if only a consequential mutation remained."

While answering the aforementioned issues, after taking into consideration the various judgments rendered by this Court, after the judgment in ***Godrej & Boyce (Supra)*** in the interregnum, the Hon'ble Supreme Court has made following observations:

> *14.2. After this categorisation, we are satisfied that there is no legally relevant distinction between the present cases and the decision in Godrej and Boyce (Supra). The ratio in Godrej and Boyce (Supra) turns on service of a notice under Section 35(3) of the IFA, the existence of a live process capable of culminating in a notification under Section 35(1) of the IFA, and strict compliance with the statutory steps that alone can support vesting under Section 3(1) of the MPFA Act on the footing of Section 2(f)(iii). The record before us discloses the same deficiencies that were fatal in Godrej and Boyce (Supra). There is no proof of service of any notice under Section 35(3) of the IFA on the then owners. There is no final notification under Section 35(1) of the IFA. Possession has remained with private owners throughout. No contemporaneous action was taken under Sections 4, 5, 6 or 7 of the MPFA Act. These features mirror the very elements that led this Court to hold that vesting had not occurred in Godrej and Boyce (Supra).*

We, therefore, find that the decision in both the reported judgments referred supra rendered by the Hon'ble Supreme Court squarely covers the Petitioner's case. We are guided by the observations of the Hon'ble Supreme Court in the same judgment, advising to follow judicial discipline, so as to avoid unnecessary expense and delay, and attempts to resist binding authority undermines the unity of law, when already binding decision is holding the field.

13. Hence, after hearing the Petition, we are convinced that the present Petition is squarely covered by both the decisions referred supra. Mere issuance of notice under Section 35(3) of

which no proof of service is available that too in the year 1960, which has not culminated into issuing Notification under Section 35(1), cannot be acted upon to make an entry in the Revenue records. Thus, the Petition succeeds and Respondent Authorities are directed to delete the entry made under the provisions of Maharashtra Private Forest Act, from the other rights column of the 7/12 extract, of the land owned by the Petitioner in Gut No. 143 of village Pale, Taluka Maval, District–Pune, to the extent of 1 Hector 60 Are. **The entry shall be deleted within a period of six weeks from today**

Needless to mention, that the State Government is at liberty to take appropriate steps for acquisition in accordance with law, if so advised. The Writ Petition is allowed and disposed of in the above terms.

(MANJUSHA DESHPANDE, J.) **(BHARATI DANGRE, J.)**

Paragraph 13 of this order is corrected (in bold) pursuant to Speaking to the Minutes order dt. 06.03.2026
Rajeshri Aher